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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/485,820	02/16/2000	NOBUHITO UEDA	Q057694	2221

7590 04/19/2004

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WASHINGTON, DC 20037-3213

EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1616

22
DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 6/5/03

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1, 3, 4, 5, 7, 8, 11, 12 & 17 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 3, 5, 7, 8, 11, 12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of Reference Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

Receipt is acknowledged of amendment of 6/05/03.

Claim 13 is misnumbered; it is claim 17.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 7, 8, 11¹² and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Levy - 5698210.

The rejection of record is maintained. Nowhere in the claim is there a requirement for complete encapsulation of a pesticide. Levy provides water dispersible granules and water-soluble formulations, with inclusion of the applicants claimed. The solid pesticidal formulation is shown by Levy, as there is no requirement of intimate contact of the solid by an enveloping alcoholic compound constituting part of the granule or powder. The zip lock bag encloses the solid, thus meeting the instant claim.

Claims 1, 3, 5, 7, 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Huang et al 5639465.

The rejection of record is maintained, again, there is no requirement for complete encapsulation by the hydroxy compound; Huang shows some, and spraying (col. 2, lines 25, 26) would in fact encapsulate.

Claims 1, 3, 5, 7, 8, 11 and 12, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al 5639465 in view of Surgant 4544093⁶⁹³

The rejection of record is maintained, as we can find aerial application over a rice paddy to constitute throwing the composition - Surgant permits of this type of application, also.

Claims 11, 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear how either PVA, or a water-soluble polymer, has antecedent support in claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Levy/LR
April 6, 2004



NEIL S. LEVY
PRIMARY EXAMINER